

HON'BLE THE CHIEF JUSTICE SRI G.S. SINGHVI
AND
HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY
Writ Appeal No.263 of 2007

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Between:

Nanda Venkataratnam

... Appellant

And

The Chief Commissioner (Appeals),
Land Administration, A.P., Hyderabad
and three others

... Respondents

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::JUDGMENT::

Counsel for the appellant : Shri K. Murali Krishna

Counsel for the respondents : Government Pleader for
Revenue

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April 9, 2007

Per G.S. Singhvi, C.J.

This appeal is directed against order dated 30-6-2006 passed by the learned Single Judge, whereby he dismissed the writ petition filed by the appellant for quashing orders dated 9-1-1998, 17-11-2001 and 26-4-2005 passed by Joint Collector-cum-Settlement Officer, Chittoor (respondent No.3), Special Commissioner and Director of Settlements, Andhra Pradesh (respondent No.2), and Chief Commissioner (Appeals) (respondent No.1) respectively under the Andhra Pradesh (Andhra Area) Estates (Abolition and Conversion into Ryotwari) Act, 1948 (for short, 'the Act').

A perusal of the record shows that the petitioner filed an

application on 27-6-1988 for grant of ryotwari patta under Section 11(a) of the Act in respect of land measuring Ac.5-00 comprised in Survey No.46/1 of Guruvarajpalle, Renugunta Mandal, Chittoor District. Along with the application, he filed a petition for condonation of delay. After issuing notice to the Mandal Revenue Officer and considering the material placed before him, respondent No.3 vide his order dated 9-1-1998 dismissed the application by observing that it was filed after 14 years and there was no explanation for this long delay. The appeal and the revision preferred by the appellant were dismissed by respondent Nos. 2 and 1 respectively vide orders dated 17-11-2001 and 26-4-2005. Paragraphs 7 to 12 of the appellate order passed by respondent No.2 read as under:

“7. It is pertinent to mention that the application for grant of ryotwari patta under Section 11 (a) of the E.A.Act, 1948 has to be filed within 30 days from the date of the rules framed under G.O.Ms.No.50, Rev. (J) Dept., dt.16-1-1974. If not filed within that period, the claimant should explain the day to day delay by giving good and sufficient cause to the satisfaction of the court. The existence of sufficient cause is a condition precedent for the exercise of the discretion under this section. The expression ‘sufficient cause’ is not defined anywhere but it has been held that it must mean the cause which is beyond the control of the party invoking the aid of the section (1954 Calcutta 238 (239) (AIR V 41 C 87) (DB) (per Sinha, J). A cause for delay which by due care and attention of the party could have avoided cannot be a ‘sufficient cause’ 1953 BOM 35 (37 (37) (AIR V 40 C 11); ILR (1952) BOM 1083 (DB). The test therefore whether or not a cause is sufficient to see whether it could have been avoided by the party by exercise of due care and attention (1964 Punj 154 (154) (AIR V 51C 43) DB. In other words, the petitioner has to show sufficient cause not only for not filing the application on the last date of limitation but he must also explain the delay made thereafter day by day till the actual filing of the application (1962 SC 361 C 364, 365) AIR V 49 C 56); 1962 (2) SCR 762. It is of course, a general principle of law that whenever a court is vested with a discretionary power such discretion must be exercised not in an arbitrary, vague or

fanciful manner, but on judicial principles (Ibid (See Dhirajlal and Ratanlal's Indian Evidence Act). The domestic problems and illness of petitioner do not constitute a valid and sufficient ground to condone the inordinate delay of over 14 years. The contention of the revision petitioner that he was given an impression that his rights would be recognised by the Government in his name is not a valid sufficient ground to condone the delay of over 14 years.

8. Further, it was held by the Supreme Court of India in the case of P.K.Ramachandran v. State of Kerala and another reported in AIR 1998 Supreme Court 2276 that:

“The High Court does not appear to have examined the reply filed by the appellant as reference to the same is conspicuous by its absence from the order. We are not satisfied that in the facts and circumstances of this case, any explanation, much less a reasonable or satisfactory one had been offered by the respondent-State for condonation of the inordinate delay of 565 days. Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribe and the Courts have no power to extend the period of limitation on equitable grounds. The discretion exercised by the High Court was, thus, neither proper nor judicious. The order condoning the delay cannot be sustained. This appeal, therefore, succeeds and the impugned order is set aside. Consequently, the application for condonation of delay filed in the High Court would stand rejected and the Miscellaneous First Appeal shall stand dismissed as barred by time.”

9. The Division Bench of the High Court in WAMP Nos.707, 708 in W.A.No.369/2000 and (45) batch of W.A. dt.20-4-2000 held:

“The avowed objective of law of limitation is that the sword of uncertainty should not be kept hanging on the head of the litigant for indeterminate period and the parties should be able to get the result of the litigation without there being any uncertainty. Absolutely, there are no sufficient grounds to condone the delay in presenting or representing the appeal, which is nearly (10) years. The state cannot be treated on a different pedestal that the ordinary litigant in the matter of

condonation of delay. No reason whatsoever have been discussed and explained by the appellants the inordinate delay.”

Further, similar views were held by the Hon’ble Division Bench of A.P. High Court in its judgment made in W.A.No.20 of 2001, dt.20-1-2001 and the same views were expressed in AIR 1988 SC 897; 2000 (4) ALT (DB) 2000 (\$) ALT 363 AIR 1988 SC 3222, AIR M 1962 SC, AIR 1987 SC 1353.”

10. On consideration of the entire material on record, it is concluded that the inordinate delay of over (14) years in filing the claim petition before the lower court has not been properly explained with sufficient cause and reason. Therefore, it is held that the orders passed by the Joint Collectors/Settlement Officer, Chittoor in D.Dis.No. 23269/96 (Settlement Officer, Nellore F/1314/88) dt.9-1-98 is perfectly in accordance with law.

11. Even on merits of the case, the record of the lower court enquiry reveals that the revision petitioner has filed a Saswatha patta dt.15-8-1942 issued by landholder of Guruvarajpalli Estate in favour of the petitioner’s father Nandra Lakshmaiah. But it was written on a plain paper and it does not bear any seal of the estate authority, this is a cooked document prepared after thought with a mala fide intention to grab the valuable lands of the government. No credence need be given to such a document inasmuch as its genuineness is doubted, as it can be prepared at any time and by any one. It does not confer any right or title over the suit land. The merits and demerits of the receipts available in the lower court record are discussed below:-

i) L.R.receipt No.915992 dt.12-3-1962 for Fasli 1369, 1370, 1371. This is post abolition period receipt in respect of patta No.95. It does not disclose any S.No. and extent to prove it relates to the suit land. Hence, it cannot be admitted into evidence.

ii) L.R.receipt dt.5-6-1952 for Fasli 1359, 1360, 1361. It is not in prescribed proforma and written on plain paper without mentioning any O.S.No./RS No./Patta No. and its relevant extent. The genuineness is doubted. Hence, it deserves no consideration and accordingly rejected.

iii) L.R.receipt dt.5-6-1949 for Fasli 1356, 1357, 1358. It is not in prescribed proforma and written on a plain paper without

mentioning any O.S.No./RS No./Patta No. and its relevant extent. Its genuineness is doubted. Hence, it deserves no consideration and accordingly rejected.

iv) L.R. receipt dt.13-5-1945 for Fasli 1353, 1354. This is also not in prescribed proforma. It does not bear any O.S.No./RS No./Patta No. to which it was paid and to show that it relates to the suit land. It does not bear any seal of the estate authority. Therefore, it cannot treat as relevant as well as genuine document. Hence, it cannot be taken into evidence and rejected accordingly.

12. Further, the revision petitioner himself admitted in his affidavit that his brother was given DKT patta clearly showed that the schedule land is a government land and assigned on DKT. Thus, it is held that the documents produced by the revision petitioner are not genuine and would not confer any right or title over the suit land for grant of ryotwari patta under the provision of E.A.Act, 1948.”

Respondent No.1 independently considered the appellant’s plea and expressed his agreement with the conclusion recorded by respondent Nos.3 and 2 that the application filed by the appellant was highly belated.

The learned Single Judge approved the orders passed by the three authorities and dismissed the writ petition filed by the appellant by observing that the discretion exercised by the revenue authorities declining the appellant’s prayer for grant of ryotwari patta does not suffer from any legal infirmity.

We have heard Shri K. Murali Krishna, learned counsel for the appellant. In our opinion, the order under challenge does not suffer from any legal infirmity. It is settled law that in exercise of power under Article 226 of the Constitution of India, the High Court can issue a writ of certiorari only if it is shown that the order passed by the quasi-judicial or judicial authority is vitiated due to want of or excess of jurisdiction or suffers from an error of law apparent on the face of the record or is violative of the rules of natural justice.

It is neither the pleaded case of the appellant nor Shri Murali

Krishna argued that respondent Nos.3, 2 and 1 did not have the jurisdiction to decide the application, appeal and revision filed by his client. Therefore, the orders passed by the three authorities cannot be castigated on the ground of lack of jurisdiction.

Learned counsel also could not show that the view taken by respondent No.3 with whom respondent Nos.2 and 1 expressed their agreement is vitiated by an error of law apparent on the face of the record. Therefore, the learned Single Judge rightly declined to entertain the appellant's challenge to orders dated 9-1-1998, 17-11-2001 and 26-4-2005 and we do not see any reason to interfere with the order under challenge.

With the above observations, the appeal is dismissed.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

April 9, 2007

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